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15  
16 UNITED STATES DISTRICT COURT  
17 EASTERN DISTRICT OF CALIFORNIA  
18

19 UNITED STATES OF AMERICA,

20 Plaintiff,

21 v.

22 DENNIS FALASCHI,

23 Defendant.  
24  
25  
26  
27  
28

No. 1:22-cr-00103-JLT-SKO

**Defendant Dennis Falaschi's Surreply**

***Request for Evidentiary Hearing***

For purposes of a complete record, the defense submits this surreply to the government's amended reply to defendant's supplemental brief. [Dkt 41]. In the amended reply, the government states: "The drain was controlled by a gate that had been cemented closed years earlier and for which the water authority had no record." [Dkt 41 at 2:2-3]. If this is meant to infer that the water authority would have cemented closed a gate in the standpipe, but no record exists corroborating such, the inference is false.<sup>1</sup>

The water authority would never put a gate on a farmer's standpipe or on a standpipe in a water district ditch. Consistent with how the water authority knowingly allowed water to seep through drains in the wall of of the Delta Mendota Canal (DMC) near MP 94.58, MP 91.71, and MP100.23, *the water authority did nothing to repair the standpipe near MP 94.58 when it repeatedly cracked from seeping DMC water and "kept flooding" the field* of Panoche Water District (PWD) board chairman Mike Linneman. [Exhibit A at ln. 414-441].<sup>2</sup> Ralph Marquez, a maintenance worker with PWD since 1984, told the government that "over and over and over" again he had to plug the standpipe with cement to prevent flooding and that he believed the standpipe was going to completely break and not only flood the PWD chairman's farm but the rest of the area. *Id.*

Dated: February 23, 2023

Respectfully submitted,

/s/ Oliver W. Wanger  
OLIVER W. WANGER

/s/ Marc Days  
MARC DAYS

/s/ John Balazs  
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<sup>1</sup> The gate was in a standpipe. [Dkt 1 at ¶12]. The standpipe is depicted in a photograph in the indictment. *Id.* at ¶13. As shown in the indictment photograph, the standpipe is in a Panoche Water District (PWD) controlled ditch near Delta Mendota Canal (DMC) milepost (MP) 94.58. *Id.*

<sup>2</sup> Attached as **Exhibit A** are excerpts from the transcript of the September 7, 2016, interview of Ralph Marquez, produced by the government in discovery.

**EXHIBIT A**

Excerpts from the transcript of the September 7, 2016, interview of Ralph Marquez.

INTERVIEW WITH JOSH MARQUEZ AND RAPHAEL MARQUEZ

Interviewer: SA Jon Cusak

9-07-16

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**INTERVIEW WITH JOSH MARQUEZ AND RAPHAEL MARQUEZ**

**Q=SA Jon Cusak**

**Q1=Grant Rabenn**

**Q2=Jennifer Jones**

**Q3=Mark Silva**

**Q4=Vince Haecker**

**Q5=Ray LeLoup**

**A=Josh Marquez**

**A1=Raphael Marquez**

Q: This is Special Agent (Jonathan) Cusak with the FBI. It is, um - uh, September the 7th, 2016. We are doing a recording with...

Q1: Grant Rabenn.

Q2: Jennifer Jones.

Q3: Mark Silva.

Q4: Vince Haecker.

Q5: Ray LeLoup.

A: Josh Marquez.

A1: Raphael Marquez.

Q: Okay. Like I said, just pretend it's not there. Cover it up, make it - you know. But, uh - all right. So just a little background on what happened was we went and talked to (Ralph). Mark and I went over and talked to (Ralph) over by one of those noisy pump stations, uh, was it maybe two weeks ago or so? And (Ralph) told us that, you know, he's gonna be honest and he knows what's happening and - and he just came straight up and - and told us what was going on and so we - we had a short conversation with him and we talked a little bit about the grand jury subpoenas, that we were gonna issue those out. And you guys probably got those, right?

A1: Mm-hm.

INTERVIEW WITH JOSH MARQUEZ AND RAPHAEL MARQUEZ

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406 A1: No.  
407  
408 Q5: ...in the stand pipe?  
409  
410 A1: In the pipe. On the - on the discharge of that pipe.  
411  
412 Q5: Okay.  
413  
414 A1: And what was happening, it kept flooding the farmer's field, which w-  
415 belongs to (Linemon). See? So what they told me is just when they - when  
416 they told us, "Why - why is that thing flooding that - that - that farmer's  
417 field?" And I said, "Well, because that - there's no gate in there, the gate is all  
418 messed up in there and there's - all the water's going through there."  
419  
420 Q5: There's no way to shut it off.  
421  
422 A1: There's no way to shut it off. I go, "As long as they keep having the canal  
423 high, when they raise the canal high that water's gonna run over."  
424  
425 Q5: Too much pressure.  
426  
427 A1: Yeah. And - because, see, 'cause that farmer uses that g- he used to use that  
428 for - the drain.  
429  
430 Q4: It's - it's gone dark. (Unintelligible).  
431  
432 A1: That - that farmer used to use that drain for their till water on that field. See?  
433 So when they - so it was - oh, I - I kept going over and over and over and  
434 putting concrete with it, to plug it up.  
435  
436 Q5: Okay.  
437  
438 A1: To slow it down. I told him one day, I said, "Look, that thing is not gonna -  
439 and - and one of these days it's gonna break completely and you gonna flood  
440 not only the farm but the rest of the area."  
441  
442 Q4: Who were you telling that to?  
443  
444 A1: My boss. And no, (Jeff) - (Jeff), uh...  
445  
446 Q5: (Jaques)?  
447  
448 A1: (Jaques). Now, he would go back - 'cause he was my foreman so they wo- he  
449 was - he would go back, talk to (Marcos) and - and Dennis. See? So then they  
450 - what they - what the DNC did, for some reason they dropped the canal all

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